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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN DOE,)
)
 Plaintiff,)
) CASE NO.
 vs.) 1:22-cv-01828-SEB-MG
)
 BUTLER UNIVERSITY,)
)
 Defendant.)

THE DEPOSITION UPON ORAL EXAMINATION OF

[REDACTED],

DATE: June 26, 2023

TIME: 12:01 p.m.

PLACE: Location of the Witness
NESENOFF & MILTENBERG, LLP
363 Seventh Avenue
New York, New York 10001

Called as a witness herein in accordance with the
Rules of Civil Procedure before Tonya J. Dunn, RPR,
CMRS, and Notary Public.

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

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*

1 we're going to have a transcript so that we can
2 read each question and each answer. If we talk
3 over each other, that becomes very difficult for
4 us to make sense of the transcript later. Does
5 that make sense?

6 A. Yes.

7 Q. Okay. If at any point I ask you a question and
8 you don't understand the question that I've
9 asked, please let me know. You can just say you
10 don't understand, and I can rephrase the
11 question. I will ask it in another way to make
12 sure you do understand the question. Is that
13 fair?

14 A. Yes.

15 Q. Okay. If I do ask a question and you answer it,
16 I'm going to assume that you've understood the
17 question. Is that fair?

18 A. Yes.

19 Q. Okay. Your deposition could take a few hours
20 today. If at any point you need a break, you are
21 free to take one. The only rule is that I ask
22 that you answer the question that's pending
23 before you before you go take your break. Once
24 you answer that question, then you can take a
25 break, take a bathroom break, get a drink, food,

1 speak with your lawyer, whatever you need to do
2 then. All right?

3 A. Yes.

4 Q. Just so that we're aware, I know you said you
5 were testifying from New York City. Are you in
6 your lawyer's office right now?

7 A. Yes, I am.

8 Q. Okay. Who else is present there?

9 A. Just me and Andrew.

10 Q. Okay.

11 A. Mr. Miltenberg.

12 Q. And I see you look off to the side. Are you
13 looking at Andrew then?

14 A. Yes.

15 MR. MILTENBERG: Yes, he is.

16 Q. Okay. Can you get -- do you currently live in
17 New York City?

18 A. No, I do not.

19 Q. Okay. Did you go out to New York City just for
20 purposes of this deposition?

21 A. Yes.

22 Q. And what is your current address?

23 A. 911 West North Street, Indianapolis, Indiana.

24 Q. How long have you lived there?

25 A. About a month.

1 Q. Who do you live with?

2 A. I live in a residential hall that is being
3 provided by my work, the NCAA.

4 Q. What, what campus are you on? Are you on IUPUI's
5 campus?

6 A. That's correct.

7 Q. And I assume then that you have graduated from
8 Purdue; is that accurate?

9 A. I have graduated from Butler, correct.

10 Q. I'm sorry. Yes. Correct. From Butler. When
11 did you graduate?

12 A. This past May.

13 Q. Do you know the day?

14 A. May 5th and May 6th.

15 Q. Did you go through ceremony on one of those two
16 days, or did you go on both?

17 A. On both days.

18 Q. Okay. And why did you attend two days of
19 graduation?

20 A. One was with the whole school, my whole
21 graduating class, and one was with my college,
22 College of Communication.

23 Q. Okay. And so May 5th and 6th of 2023; is that
24 right?

25 A. Correct.

1 Q. And what degree did you receive?

2 A. I received a BA in sports media.

3 Q. Did you have a minor or just a major?

4 A. I minored in organizational communication and
5 leadership.

6 Q. And then was your major actually sports media?

7 A. Yes.

8 Q. Do you know what your GPA was when you graduated?

9 A. It was around a 3.7.

10 Q. Congratulations. Did you graduate with honors?

11 A. Yes, I did, with distinction.

12 Q. And then you mentioned that you're currently
13 employed by the NCAA; is that accurate?

14 A. Correct.

15 Q. What do you do there?

16 A. I'm a seasonal intern there for a college
17 basketball academy camp they're running.

18 Q. Is that a paid position?

19 A. Yes, it is.

20 Q. Is that a position with a set term? You said
21 it's seasonal. Do you know when your end date
22 is?

23 A. August 4th.

24 Q. And when did you start?

25 A. May 15th or somewhere around that date.

1 Q. Do you have plans for employment after
2 August 4th?

3 A. I do not.

4 Q. What's your ultimate employment goal at this
5 point?

6 A. To work in college athletics.

7 Q. Do you have any plans as to where -- what level
8 you want to work at? College at the NCAA or at
9 a -- I want to say a division. That's not the
10 word I'm looking for but...

11 A. I would like to work at all three levels, campus;
12 national, the headquarters; and conference.

13 Q. Thank you. That was the word I was looking for.

14 And do you currently -- are you currently
15 looking for employment that would start after you
16 finish your seasonal internship on August 4th?

17 A. Yes, I am.

18 Q. Has anything that relates to this lawsuit
19 hindered you in any way in finding employment
20 since you graduated about six weeks ago?

21 A. No, it has not.

22 Q. And do you have plans for any further education?

23 A. Not of now.

24 Q. Are you originally from Indiana?

25 A. No, I am not.

1 Q. Where are you from?

2 A. Seattle, Washington.

3 Q. What high school did you attend?

4 A. Seattle Academy of Arts and Sciences.

5 Q. Did you look at colleges or universities other
6 than Butler?

7 A. Yes, I did.

8 Q. Why did you ultimately select Butler?

9 A. The major appealed to me of sports media, and it
10 was a small school like my high school.

11 Q. When you went to Butler, were you involved in any
12 organizations there on campus?

13 A. Yes, I was.

14 Q. What were you involved in?

15 A. I was the student mascot for my first two years
16 at Butler.

17 Q. So for your freshman and sophomore year?

18 A. Correct.

19 Q. Did you do it at all during your junior or senior
20 year?

21 A. Around half of my senior year I was mascot also.

22 Q. Any other organizations you were involved in on
23 campus at Butler?

24 A. I was in a fraternity my first few years as well.

25 Q. What was the fraternity?

1 A. Phi Delta Theta.

2 Q. And did you ultimately depledge Phi Delta Theta?

3 A. Yes, I did.

4 Q. When did you do that?

5 A. In the summer of 2021.

6 Q. Why did you make the decision to depledge?

7 A. Some of the members of this cohort were also in
8 the fraternity as well.

9 Q. Okay. Just so our record's clear, when you say
10 the members of this cohort, are we talking about
11 some of the people that ultimately ended up
12 participating in this investigation?

13 A. Correct.

14 Q. All right. And I would generally use the name --
15 the term roommates for them. Is that not a
16 correct term?

17 A. There were some members who were my roommates,
18 but some were just in the friend group in
19 general.

20 Q. Okay. Did you have more than one roommate?

21 A. Yes, I did.

22 Q. Okay. And sorry. I should clarify my question.
23 I'm looking specifically at March of 2021. Did
24 you have more than one roommate then?

25 A. Yes, I did.

1 Q. Okay. Have you ever seen Butler's student
2 handbook?

3 A. Yes, I have.

4 Q. Do you have a copy of it?

5 A. I don't recall.

6 Q. Okay. Do you know when you first saw the
7 handbook?

8 A. I first saw it in my freshman year.

9 Q. How did you get a copy of it?

10 A. By email.

11 Q. Was there a copy available on the website that
12 you could go access as well?

13 A. Yes, there was.

14 Q. Okay. And the one that was provided to you by
15 email, was that an actual document or attachment
16 to an email or was it a web link that you could
17 go to?

18 A. I do not recall.

19 Q. Throughout your time at Butler, if you ever
20 needed to go look at the handbook, how would you
21 access it?

22 A. I would access it online on the Butler web page.

23 Q. Okay. I'm going to try to share my screen with
24 you in just a moment here. I think it might be
25 this one. Well, it was that one. Sorry. My

1 apologies. All right. [REDACTED], can you see what I
2 have up on the screen here?

3 A. Yes.

4 (Exhibit 114, Butler Student Handbook, was
5 introduced.)

6 Q. Okay. I'm looking at a page that says Butler
7 University, and then right underneath that on the
8 left-hand side it says, Home, slash, Student
9 Life, slash, Student Handbook. Is that what you
10 see as well?

11 A. Yes.

12 Q. I'm going to identify this as Exhibit 114.
13 Looking at this document -- and tell me if you
14 need me to stop at any particular point -- is
15 this what you would see when you went to the
16 website to view the handbook?

17 A. Yes. To the best of my knowledge.

18 Q. Okay. It's a page that at least looked like
19 this; is that accurate?

20 A. Correct.

21 Q. Okay. And so you first got a copy of this your
22 freshman year. So you had already enrolled in
23 Butler; is that right?

24 A. Yes.

25 MR. MILTENBERG: Objection. You can answer.

1 A. Yes. Correct.

2 Q. And had you seen -- well, when you received a
3 copy of this, did you read it from front to back?

4 A. I do not recall.

5 Q. Okay. Do you know when you first saw the Student
6 Code of Conduct Policy that's within the
7 handbook?

8 A. I don't recall.

9 Q. Do you know when you first saw the Sexual
10 Misconduct Policy that's in the handbook?

11 A. I do not.

12 Q. What sort of information would you generally pull
13 up the handbook to find?

14 MR. MILTENBERG: Objection. You can answer.

15 A. Generally I would look it up to find information
16 about the university and how things are dealt
17 with.

18 Q. Were there any particular policies that you
19 recall having to go to the handbook for other
20 than the Sexual Misconduct Policy?

21 MR. MILTENBERG: Objection. You can answer.

22 A. At the beginning of my freshman year, we went
23 through a course based on alcohol usage at the
24 university.

25 Q. And was the information for that provided in the

1 handbook?

2 A. To the best of my knowledge, yes.

3 Q. Do you remember anything else specifically that
4 you had to go to the handbook to look up?

5 A. No, I do not.

6 (Exhibit 108, Sexual Misconduct Policy,
7 PLTF000398-426, was introduced.)

8 Q. I'm showing you what we're identifying as
9 Exhibit 108. I'll scroll down to the bottom so
10 you can see these little initials down at the
11 bottom. The first page down on the right-hand
12 side, it says PLTF000398. Do you see that?

13 A. Yes, I do.

14 Q. Okay. I will represent to you that the documents
15 that have that little stamp at the bottom were
16 provided to me by your counsel in response to
17 discovery requests.

18 Looking here at Exhibit 108, are you familiar
19 with this document?

20 A. Yes.

21 Q. And do you know when you first saw this document?

22 A. I do not recall.

23 Q. Okay. Looking at the top in the very beginning,
24 there's sort of the small -- underneath where it
25 says Sexual Misconduct Policy, there are a few

1 small lines. The last line says, Revision Date.

2 Do you see that?

3 A. Yes, I do.

4 Q. What's the date?

5 A. August 14, 2020.

6 Q. Okay. And were you involved in any complaints
7 related to the Sexual Misconduct Policy prior to
8 August 14, 2020?

9 A. No, I was not.

10 Q. Okay. As of August 14, 2020, where were you in
11 your education at Butler? What year were you in?

12 A. I was in the, in the fall of my sophomore year.

13 (Exhibit 109, Sexual Misconduct Policy,
14 PLTF000427-452, was introduced.)

15 Q. I'm going to show you now a document -- well, I
16 thought I was. Oh, there it is.

17 Showing you a document now that's labeled as
18 Exhibit 109. Down at the very bottom of this on
19 the right-hand side, there are little numbers
20 that are PLTF000427. Do you see that?

21 A. Yes, I do.

22 Q. Okay. Looking at this document that's labeled as
23 Exhibit 109, it shows it's a Sexual Misconduct
24 Policy, and the revision date here reflects
25 December 18, 2020. Is that what you see as well?

1 A. Yes.

2 Q. Okay. Do you know when you first saw this
3 policy?

4 A. I do not recall.

5 Q. The issue that is raised in the lawsuit that you
6 have filed relates to a complaint that was filed
7 in March of 2021; is that accurate?

8 MR. MILTENBERG: Objection. You can answer.

9 A. To the best of my knowledge, yes.

10 Q. Okay. And is it your understanding that the
11 policy we're looking at here as Exhibit 109 is
12 the Sexual Misconduct Policy that was in place as
13 of March of 2021?

14 MR. MILTENBERG: Objection. You can answer.

15 A. I do not see that date on this document.

16 Q. Okay. Are you aware of any other Sexual
17 Misconduct Policy that was put in place between
18 December 18, 2020, and March of 2021?

19 MR. MILTENBERG: Objection. You can answer.

20 A. No, I am not.

21 Q. Okay. To your knowledge, were you provided --
22 well, representing to you that this document was
23 provided to you -- or provided to me by your
24 counsel in response to discovery, do you know how
25 you obtained a copy of this particular document

1 that's listed as Exhibit 109?

2 MR. MILTENBERG: Objection. You can answer.

3 A. I do not.

4 Q. Before I put this document up on the screen
5 today, had you seen it?

6 A. I do not believe so.

7 Q. During your time at Butler, had you ever gone out
8 to check and see if the Sexual Misconduct Policy
9 was revised?

10 MR. MILTENBERG: Objection. You can answer.

11 A. I do not recall.

12 Q. [REDACTED], I'm going to ask you some questions
13 specific to this breach of contract theory that
14 you've alleged in your complaint. If it's of
15 assistance, I can actually show you the complaint
16 as I refer to certain things. I've hit "resume
17 share," but I don't have my little green
18 highlighter on this. Can you see my screen as I
19 scroll through this document?

20 A. I can't.

21 Q. Yeah. I don't know. It says -- let me stop and
22 go back to it. There we go. Now I got my little
23 green line.

24 All right. I'm showing you a document that
25 is titled John Doe versus Butler University in

1 Case Number 1:22-cv-1828. Do you see that here
2 at the top?

3 A. Yes, I do.

4 Q. Okay. I'm going to ask you -- I'm here on
5 page 30. In your complaint you have alleged in
6 Paragraph 150, subparagraph A, Butler failed to
7 properly screen J.F.'s complaint, wrongly
8 classifying it as a stalking claim even though
9 the allegations made by J.F., if true, would not
10 constitute stalking as defined by the SMP. Do
11 you see that?

12 A. Yes.

13 Q. Okay. Here where you talk about J.F.'s
14 complaint, can you tell me what you're referring
15 to?

16 A. I am referring to J.F.'s initial complaint
17 against me of stalking.

18 (Exhibit 100, 3-11-2021 Kanger letter to
19 [REDACTED], was introduced.)

20 Q. Let me show you what's been labeled as
21 Exhibit 100. Do you recognize this document?

22 A. I do not recall.

23 Q. Okay. As I scroll through here, does that look
24 familiar to you at all?

25 A. I still don't recall.

Luke Casey Allen - - June 26, 2023
Doe v. Butler University

21

1 Q. Okay. As you sit here today, do you have any way
2 of knowing if, in fact, this Exhibit 100 is the
3 information that was provided to you regarding
4 the complaint J.F. filed against you?

5 A. I would imagine it is in my Butler email.

6 Q. Okay. Do you still have access to your Butler
7 email?

8 A. Yes, I do.

9 Q. I'm going to look at the second paragraph here on
10 Exhibit 100. It says, It is alleged that you
11 (Respondent) have engaged in a course of conduct
12 towards J.F. (Complainant) that includes the
13 following: tracking her location via social
14 media throughout the course of your friendship;
15 watching from the window of your pod to see when
16 members of Complainant's pod at Fairview come and
17 go; coming into her pod on multiple occasions
18 without asking first; entering the general area
19 of Complainant's pod on multiple occasions while
20 she and her roommates were not present in the
21 pod, searching for them; and entering
22 Complainant's individual room without
23 Complainant's permission when she wasn't there
24 and using her bathroom.

25 What I just read, is that what you're

1 referring to in your complaint when you talk
2 about J.F.'s complaint?

3 MR. MILTENBERG: Objection. You can answer.

4 A. Yes.

5 Q. Okay. And as you sit there today, do you recall
6 how you first learned about her complaints?

7 A. I had first learned about her complaint from an
8 email from Mrs. Kanger on March 13th of 2021.

9 Q. And to your recollection, was a document such as
10 this attached to that email?

11 A. I do not recall.

12 Q. In that email from Ms. Kanger, did you -- how did
13 she advise you of the allegations that J.F. had
14 made?

15 A. Ms. Kanger had emailed me asking to meet with me
16 on a Zoom call, and I had found out the
17 allegations from Ms. [REDACTED] on that Zoom call.

18 Q. Who else participated in that Zoom call?

19 A. My mother, me, and Ms. Kanger.

20 Q. And do you remember the date of that call?

21 A. I believe that was March 13th, 2021.

22 Q. Do you have any way of knowing what information
23 J.F. originally provided to Butler at the time
24 she made her complaint?

25 A. I don't recall.

1 Q. Were you ever provided with a copy of her
2 complaint?

3 A. I don't recall.

4 Q. Everything that we talked about there in
5 Paragraph 2 of Exhibit 100 regarding her
6 allegations, are those things you had heard
7 before today?

8 A. Yes, I have.

9 Q. I'm going to move on to paragraph Number 3 of
10 Exhibit 100. It says, It is also alleged that at
11 the beginning of the academic year, Complainant
12 made it clear that her individual room was
13 private and that access to her room is definitely
14 something that you have to ask for.

15 Were you advised that that was one of the
16 complaints that J.F. had made?

17 A. Yes, I believe I was.

18 Q. Okay. The next sentence says, Complainant said
19 that she made a big enough deal about this that
20 everyone is aware, and people would joke about
21 needing written permission to enter Complainant's
22 room.

23 Were you aware that that's an allegation that
24 she had made in this process as well?

25 A. Yes, I was.

1 Q. Okay. The next sentence says, Further,
2 Complainant alleged that you, in particular, were
3 very aware that Complainant had experienced a
4 break-in of her cabin, that things were stolen,
5 and that it was a huge fear of Complainant's that
6 other people may enter her space and hurt her.

7 Were you aware that that was an allegation
8 that J.F. had made as well?

9 A. Yes, I was. But that statement is untrue.

10 Q. Okay. And then the next sentence says,
11 Additionally, it is alleged that Complainant and
12 her roommates spoke with you about three weeks
13 before the end of Fall 2020 semester establishing
14 their boundaries.

15 Were you aware that that was an allegation
16 that was made as part of this complaint?

17 A. Yes, I was.

18 Q. Okay. Then the last sentence says, It is alleged
19 that you were very -- I'm sorry -- is alleged
20 that they were very specific with you about these
21 boundaries, including things like the hours that
22 you could visit their room.

23 Were you aware that that was also an
24 allegation made in the complaint?

25 A. Yes, I was.

1 Q. Moving on to the fourth paragraph, starting with
2 the first sentence, it says, Complainant also
3 provided information regarding the impact of the
4 alleged course of conduct. She stated that your
5 presence in the general area of her pod,
6 including at times when she and her roommates
7 were not present, caused her to feel very
8 uncomfortable.

9 Were you aware that that was an allegation
10 that J.F. was making?

11 A. Yes, I believe I was.

12 Q. When she learned that you were present in the
13 general area of her pod on the night you
14 allegedly entered her individual space and used
15 her bathroom, she became extremely stressed out
16 because she was aware from campus -- I'm sorry --
17 she was away from campus and had forgotten to
18 lock the door in her individual room.

19 Were you aware that that was an allegation
20 that J.F. made in this process?

21 A. Yes.

22 Q. Next sentence says, Later when a friend who was
23 present in the pod that night told her that you
24 had entered her individual space and used her
25 bathroom, she was very distraught.

1 Were you aware that that was also an
2 allegation that J.F. made in this complaint
3 process?

4 A. Yes, I was.

5 Q. Next sentence says, She said that when she
6 confronted you about it via text, you said that
7 the friend had given her permission -- I'm sorry.
8 Yeah -- you said that the friend had given you
9 permission to use the bathroom.

10 Were you aware that that was an allegation
11 that J.F. made in this complaint?

12 A. Yes.

13 Q. Next sentence says, Complainant said that she was
14 upset -- I'm sorry. Complainant said that this
15 upset her because she had spoken to the friend
16 and knew that this was not true and because she
17 felt that was a terrible excuse, as the friend
18 was not a resident of the Complainant's room.

19 Were you aware that that was an allegation
20 that J.F. made in this complaint?

21 A. Yes.

22 Q. Next sentence says, After this, Complainant
23 stated that she was -- I'm sorry -- that she had
24 a really bad mental breakdown.

25 Were you aware that that was an allegation

1 that J.F. made with her complaint?

2 A. Yes.

3 Q. The last sentence there in that paragraph says,
4 Further, Complainant said that finding out things
5 such as that you were tracking her via social
6 media felt like the TV show "You," when someone
7 pretends to be a friend in order to get
8 information about the person they have
9 befriended.

10 Were you aware that that was an allegation
11 that J.F. made in the complaint?

12 A. Yes. This was in the allegation.

13 Q. Okay. So even though you don't necessarily
14 recognize this document itself, the allegations
15 that we just talked about you were made aware of
16 throughout the complaint process; is that
17 accurate?

18 A. Correct.

19 Q. Okay. And if you wanted to go back and see if
20 you had a copy of this document in your
21 possession, how would you go about that?

22 A. I would look back in my Butler email and look for
23 the date it was sent.

24 Q. Switching over here, you should be able to see
25 the complaint again. Is that the document you

1 can see on your screen?

2 A. Yes.

3 Q. Going down to Paragraph 150b that says, Butler
4 did not provide plaintiff with meaningful access
5 to the information gathered during the
6 investigation, including by overredacting the
7 records to such an extent that they were
8 virtually inscrutable and repeatedly refusing to
9 ameliorate the issue despite numerous requests
10 from plaintiff.

11 I'm going to ask you some questions about
12 that particular allegation. When you talk about
13 redactions, can you tell me what was redacted?

14 A. In almost --

15 MR. MILTENBERG: Objection. You can answer.

16 A. In some certain documents it would say Witness
17 Number 1 through 10, and we would have to comb
18 back through the documents to put together who
19 that exactly was.

20 Q. Was it generally -- to your recollection, was it
21 generally witness names that were redacted?

22 A. Yes.

23

24 MR. MILTENBERG: Objection. You can answer.

25 A. As well as -- yes.

1 Q. As well as what?

2 A. As well as some certain other information.

3 Q. You talk about -- let's make sure we know what
4 particular documents we have here. I'll
5 represent to you that these documents were
6 provided by your counsel in response to
7 discovery.

8 (Exhibit 102, Final Investigation Reporter,
9 PLTF000001-118, was introduced.)

10 Q. You should see what's been labeled as
11 Exhibit 102. In the left-hand corner it says
12 Butler University, and then the caption, the heading,
13 first sentence -- or the first line says, Final
14 Investigation Report. Is that what you're seeing?

15 A. Yes.

16 Q. Okay. Scrolling down to the bottom of this page,
17 the number that's Bates stamped in the far
18 right-hand corner is PLTF000001. Do you see that
19 as well?

20 A. Yes.

21 Q. Okay. Up here in the top, you can see that this
22 is page 1 of 118 pages. I'm happy to scroll
23 through this document as much as you need. You
24 let me know how much you want to see. My
25 question to you is: Is this a report that you

1 received from Butler?

2 A. Yes, it is.

3 (Exhibit 103, Final Investigation Report
4 Appendix, PLTF000130-366, was introduced.)

5 Q. Okay. You should see on your screen Exhibit 103.
6 The top line of that document says Final
7 Investigative Report Appendix. Do you see that?

8 A. Yes, I do.

9 Q. Scrolling down to the bottom, the number in the far
10 right-hand corner is PLTF000130. Do you see that?

11 A. Yes.

12 Q. Okay. Again, I'll represent to you, as shown in
13 the top corner here, this is page 1 of 237 pages.
14 Are you familiar with this document?

15 A. Yes, I am.

16 Q. Do you know how you received that document?

17 A. To the best of my knowledge, I received this from
18 an email from Mrs. Kanger.

19 Q. And is this a document that you reviewed prior to
20 today?

21 MR. MILTENBERG: Objection. You can answer.

22 A. Yes, it is.

23 (Exhibit 104, Final Investigation Report:
24 Information Directly Related to the
25 Allegations, was introduced.)

1 Q. Showing you what's been labeled as Exhibit 104,
2 the first line of this says, Final Investigative
3 Report, and down at the bottom -- oh, we don't
4 have a Bates stamp here. The next line says,
5 Information Directly Related to the Allegations.
6 Is that the document you're seeing on your
7 screen?

8 A. Yes.

9 Q. Okay. Have you seen this document before?

10 A. Yes.

11 Q. Okay. And do you know how you received a copy of
12 it?

13 A. To the best of my knowledge, I received this from
14 Ms. Kanger as well.

15 Q. Okay. And prior to today, have you looked
16 through this document?

17 MR. MILTENBERG: Objection. You can answer.

18 A. Yes.

19 (Exhibit 105, Final Investigation Report:
20 Information Not Directly Related to the
21 Allegations, PLTF000119-129, was
22 introduced.)

23 Q. I think we have one more that goes with this set.
24 Yep. You should be seeing on your screen what's
25 labeled as Exhibit 105. First line of this

1 to you is: Looking at your complaint, when you
2 talk about Butler not providing meaningful access
3 to the information that was gathered during the
4 investigation, that particular allegation, are
5 you encompassing in that the document that we
6 looked at labeled as Exhibit 101 -- I'm sorry --
7 102? And I will share that with you again.

8 Well, let's try this share again. 102, do
9 you see that document on your screen now?

10 A. Yes.

11 Q. Okay. So when you talk about the information --
12 not having meaningful access to the information
13 gathered during the investigation, is Exhibit 102
14 one of the documents you're talking about?

15 A. Can you repeat the question, please?

16 Q. Yes. You make an allegation that Butler did not
17 provide you with meaningful access to the
18 information gathered during the investigation.
19 In that allegation, is Exhibit 102 one of the
20 documents you're referring to?

21 A. During the investigation there were multiple
22 versions of documents that were sent to me that
23 had many redactions much like this.

24 Q. Okay. So you have received versions other than
25 Exhibit 102 through 105 that we just looked at?

1 A. To the best of my knowledge, at some point I
2 might have.

3 Q. Okay. I will represent to you that in discovery
4 you did not provide me with any other documents
5 or reports from Butler. Do you believe you have
6 others in your possession?

7 A. I don't recall.

8 Q. Okay. For purposes of producing documents for
9 discovery, how did you obtain this exhibit that's
10 on the screen right now identified as
11 Exhibit 102?

12 A. I believe I would have gotten that from
13 Ms. Kanger.

14 Q. Okay. But in order to produce it as an exhibit
15 in this lawsuit, how did you go about finding
16 this document?

17 A. I had documents from this -- these allegations in
18 my possession, and I saved them to my computer as
19 I received them.

20 Q. Okay. And in order to provide a copy to me in
21 response to discovery, did you then go search
22 your computer for the documents?

23 A. Yes.

24 Q. Okay. Did you provide all of the documents that
25 you found?

1 MR. MILTENBERG: Objection. You can answer.

2 A. To the best of my knowledge, I believe I did.

3 Q. Okay. So you just gave an answer a few moments
4 ago saying that you received variation documents
5 throughout this process that were redacted. Are
6 you aware, as you sit there today, of other
7 documents that we have not looked at on these
8 Exhibits 102 through 105 which were redacted?

9 MR. MILTENBERG: Objection. You can answer.

10 A. I don't recall.

11 Q. Do you recall receiving a preliminary
12 investigation report?

13 A. Yes, I do.

14 Q. Okay. Do you still have a copy of that report?

15 A. I believe I do.

16 Q. Okay. I will represent to you that in the
17 documents provided in discovery, you did not
18 provide the preliminary investigation report.

19 Do you know why you would have not provided
20 that?

21 A. I do not recall.

22 Q. Would you have destroyed that document?

23 MR. MILTENBERG: Objection. You can answer
24 if you know.

25 A. I would not have destroyed that document.

1 Q. Okay. So if that's something you had, at least
2 to your knowledge, that's a document you would
3 still have in your possession, correct?

4 MR. MILTENBERG: Objection. You can answer.

5 A. Yes, I believe so.

6 Q. Okay. And if you wanted to go search for that
7 document, how would you find it and identify it
8 to produce it?

9 A. I would look through the saved downloads on my
10 computer.

11 Q. You were provided with Exhibit 102 that's
12 118 pages; is that accurate?

13 MR. MILTENBERG: Objection. You can answer.

14 A. Yes. To the best of my knowledge, I had.

15 Q. Okay. And if this was produced to us by your
16 counsel, is this a document you would have
17 provided to your counsel?

18 MR. MILTENBERG: Objection. You can answer.

19 A. Yes, I believe so.

20 (Exhibit 101, Key of Participants,
21 PLTF000368, was introduced.)

22 Q. I'm sharing my screen so you can see a document
23 that's labeled as Exhibit 101. Up in the
24 left-hand corner it says Butler University, and
25 then the first title of the document says, Key of

1 Participants. Do you see that document?

2 A. Yes.

3 Q. Okay. Did you receive a copy of this?

4 A. Yes, I did.

5 Q. Do you know when you received this document?

6 A. I do not recall a specific date to when I would
7 have received this.

8 Q. Okay. You had testified earlier that -- I'll
9 have to look at my notes here -- that some
10 witnesses -- when you talked about redactions,
11 some witnesses' names were taken out and
12 identified with things such as Witness Number 1.
13 Does that sound correct?

14 A. Yes.

15 Q. Okay. And at the time you received a report that
16 referred to Witness Number 1, did you also
17 receive this Exhibit 101 that told you who
18 Witness Number 1 was?

19 A. Yes, I believe so.

20 Q. Were you given an opportunity to provide a
21 response to the preliminary investigation report?

22 A. Yes, I was.

23 Q. Okay. Did you take advantage of that opportunity
24 and actually provide a response?

25 A. I do not believe I did.

1 (Exhibit 106, 7-16-2021 Response to the
2 Preliminary Investigative Report and
3 Evidence, was introduced.)

4 Q. Sharing my screen here to show you a document
5 that's been labeled as Exhibit 106. Have you
6 seen this document before?

7 A. Yes, I have.

8 Q. Okay. Is this a -- and I'll represent to you
9 that I'm showing you currently page 1 of 8. I'm
10 happy to scroll through for you to see the entire
11 document. Please let me know if you need that.
12 Is this a document that you prepared?

13 A. Yes, it is.

14 Q. And the heading of this, so to speak, that's in
15 bold print and underlined says, Response to
16 Preliminary Investigative Report and Evidence.
17 Do you see that?

18 A. Yes, I do.

19 Q. Is that an appropriate title for what this
20 document represents?

21 MR. MILTENBERG: Objection. You can answer.

22 A. Yes, it is.

23 Q. Okay. Did you, in fact, prepare this document as
24 your response to the preliminary investigative
25 report?

1 A. Yes, I did.

2 Q. And then did -- after preparing this, did you
3 submit this to Butler?

4 A. Yes, I did.

5 Q. I'm going to flip down to page 5 here of your
6 report -- I'm sorry -- of your response, I should
7 say. In the first paragraph on page 5 here, do
8 you see where you make reference to Witness 2 and
9 Witness 5?

10 A. Yes, I do.

11 Q. Okay. If you look at that paragraph and what
12 you're referring to with Witness 2 and Witness 5,
13 I'm going to show you Exhibit 101 and ask you
14 some questions. So if you'll just read that for
15 a moment. Are you good or do you need more time?

16 A. Yes, I'm good.

17 Q. I'm sorry. You're good? Okay.

18 A. Yeah.

19 Q. I'm just going to switch here. So Witness 2 and
20 Witness 5 are the two I'm looking at. Going back
21 here to Exhibit 101, based upon what you read in
22 your response to the preliminary investigation,
23 does your reference to Witness 2 and Witness 5
24 align with the individuals identified on
25 Exhibit 101?

1 A. Yes, I believe it does.

2 Q. Okay. So at the time you wrote your report --
3 your response to the preliminary investigative
4 report, do you believe you had the information
5 available to be able to identify who Witness 2
6 and Witness 5 were?

7 A. Yes.

8 Q. Going back to show you Exhibit 106, there are
9 parts of your response, particularly starting
10 here in Paragraph 2 on page 5, where it refers to
11 witnesses by name. Do you see that as well?

12 A. Yes, I do.

13 Q. Were you -- when you're referring to witnesses by
14 name, can you tell me how you were able to
15 identify who those witnesses were?

16 A. Can you repeat that question again?

17 Q. Sure. So in the first paragraph, you referred to
18 the individuals as Witness 1 and Witness 5. Then
19 the next paragraph you used names instead of
20 those identifiers. So far does that make sense
21 in what I'm pointing out?

22 A. Yes.

23 Q. Okay. So based upon that, my question is: How
24 were you able to identify who the individuals
25 were so that you could call them by name in

1 Paragraph 2 instead of by their identifiers?

2 MR. MILTENBERG: Objection. You can answer.

3 A. I don't recall.

4 Q. Okay. When you first received the preliminary
5 investigative report, do you recall if it could
6 be viewed only online?

7 A. I don't recall.

8 Q. Okay. Do you recall if you were ultimately able
9 to download a copy of that preliminary report?

10 A. I do not recall either.

11 (Exhibit 110, June-July 2021 email chain,
12 was introduced.)

13 Q. Sharing my screen with you to show you an exhibit
14 that's labeled as Exhibit 110. I'll represent to
15 you that, as shown on the upper left-hand corner,
16 this is page 1 of eight pages. The first
17 individual on this is Kody Rother. Do you know
18 who Kody Rother is?

19 A. Yes, I do.

20 Q. Okay. Who is that?

21 A. Mr. Rother was the investigator.

22 Q. And then the individual who's sending this email
23 that's at the top of page 1 is Marybeth Sydor.
24 Do you know who Marybeth is?

25 A. Yes, I do.

1 Q. Who's Marybeth?

2 A. Ms. Sydor, one of my lawyers.

3 Q. Did she assist you throughout the investigation
4 process and hearing at Butler?

5 A. Can you repeat that?

6 Q. Sure. Did Marybeth Sydor assist you during the
7 investigation, hearing, and that process at
8 Butler?

9 A. Yes, she did.

10 Q. During the Sexual Misconduct Policy investigation
11 that took place, were you allowed to have an
12 advisor?

13 A. Yes, I was.

14 Q. Okay. And was Marybeth Sydor the individual you
15 identified as your advisor?

16 A. Yes, she was.

17 Q. Taking you to page 4 of Exhibit 110, the message
18 that's on the screen there, which is -- I'm
19 showing you an email from Kody Rother to Marybeth
20 Sydor dated June 30, 2021. Is that what you're
21 seeing as well?

22 A. Yes.

23 Q. Okay. You're cc'd on this email. Do you recall
24 seeing this previously?

25 A. Yes, I do.

1 Q. Okay. And as you read through that email that's
2 on the screen, does that tell you if you were
3 able to at some point be able to download the
4 preliminary investigative report?

5 MR. MILTENBERG: Objection. You can answer.

6 A. Yes, it does.

7 Q. Okay. And based upon what you're seeing here in
8 Exhibit 110 and your recollection of what you
9 were able to do, did you, in fact, download a
10 copy of that report?

11 MR. MILTENBERG: Objection. You can answer.

12 A. I don't recall.

13 Q. Okay. Do you recall at the time you received the
14 preliminary report if you also received an
15 appendix with it?

16 A. Yes, I believe I did.

17 Q. Okay. And did that appendix include the
18 investigator's notes and summaries?

19 A. Yes, I believe it did.

20 Q. We talked about the redactions that were on the
21 documents that you received from Butler. Do you
22 know if J.F. received documents with the same
23 redactions?

24 A. I do not.

25 Q. Okay. Do you have any personal knowledge as to

1 what the documents looked like that J.F. received
2 from Butler?

3 A. No, I do not.

4 Q. All right. I've put back up on the screen for
5 you Exhibit 106. I'll scroll back to the top
6 just so you know. This is the document that was
7 titled Response to the Preliminary Investigative
8 Report and Evidence that you prepared. Can you
9 tell me in general, what sort of information did
10 you try to provide in that report?

11 MR. MILTENBERG: Objection. You can answer.

12 A. I believe I tried to provide my best accounts of
13 what happened.

14 Q. Were you given any instructions from Butler as to
15 what you could or could not include in that
16 response?

17 A. I do not recall.

18 Q. Were you given any page limits?

19 A. I do not believe so.

20 Q. How did you decide what you would include in this
21 particular response?

22 A. I do not recall.

23 Q. Do you recall if there's any information that you
24 wanted to provide in this response but you felt
25 you were not able to?

1 MR. MILTENBERG: Objection. You can answer.

2 A. No, I do not.

3 Q. Did you work with your advisor in preparing the
4 response that we have here in Exhibit 106?

5 A. I do not recall.

6 Q. Is it your recollection that you actually
7 prepared this document?

8 A. Yes. With my mother, I believe I did.

9 Q. And is this a document that you believe you have
10 on your computer?

11 A. Yes.

12 Q. Okay. All right. I'm sharing with you once
13 again the complaint that was filed in this
14 action. We're on page 30 of it, looking
15 specifically about Paragraph 150, subparagraph C,
16 down at the bottom. The allegation is Butler did
17 not complete the investigation in a reasonably
18 prompt time frame, but rather expanded the
19 investigation above and beyond the relevant
20 claims to become an aimless evaluation of
21 plaintiff's personality and friendships as a
22 whole.

23 I want to ask you some questions about that
24 particular allegation. Okay? I'm sorry. Is
25 that a yes?

1 A. Yes.

2 Q. And, [REDACTED], I apologize. I should have said that
3 at the beginning. I know in common-day
4 communication we often nod and shake our head to
5 indicate yes or no. The court reporter is not
6 able to pick that up on the record. And so if I
7 say to you is that a yes or is that a no, please
8 know I'm just trying to make a record. I'm not
9 trying to be rude. I do understand that's the
10 way we would normally speak -- or we would
11 normally communicate. It just doesn't translate
12 well to a deposition. Okay?

13 A. Yes.

14 Q. Okay. And this paragraph that I just read to
15 you, that first sentence, it says that the
16 investigation was not completed in a reasonably
17 prompt time frame. What do you mean by
18 reasonably prompt?

19 MR. MILTENBERG: Objection. You can answer.

20 A. What sticks out to me most is Mr. Rother
21 resigning 69 minutes before the first hearing
22 date on September 2, and that had to be postponed
23 until a month later on October 13th.

24 Q. So as far as you're considered, the issue with
25 reasonably prompt has to do with the hearing and

1 A. To the best of my knowledge, I do not believe so.

2 Q. Okay. And did J.F. ask you any questions?

3 A. No, she did not.

4 Q. Did you present any documents to the
5 decision-maker?

6 MR. MILTENBERG: Objection. You can answer.

7 A. I do not recall.

8 Q. As for the information you presented at the
9 hearing, other than the opening statement and
10 answering those questions, do you recall anything
11 else you did?

12 A. I do not.

13 Q. Do you recall anything else that was done on your
14 behalf at the hearing?

15 A. I do not.

16 Q. Okay. Did J.F. present an opening statement?

17 A. Yes.

18 Q. Okay. And did J.F. answer questions as well?

19 A. Yes, I believe she did.

20 Q. Do you recall who asked J.F. questions?

21 A. I believe my advisor, Ms. Sydor, did.

22 Q. Do you recall if anyone else asked J.F.
23 questions?

24 A. No, I do not.

25 Q. Do you recall if J.F. provided any documents or

1 exhibits at the hearing?

2 A. I do not.

3 Q. Do you recall if J.F. presented any other
4 witnesses?

5 A. I believe there were about three or four
6 witnesses who testified.

7 Q. And did each of those witnesses answer questions?

8 MR. MILTENBERG: Objection. You can answer
9 if you know.

10 A. Yes, they did.

11 Q. Do you recall who asked them questions?

12 A. My advisor, Mrs. Sydor, did.

13 Q. Do you recall if anyone else asked those
14 witnesses questions?

15 A. No, I do not.

16 Q. Do you recall if any of those three or four
17 witnesses provided any documents to the
18 decision-maker?

19 A. No, I do not.

20 Q. Sharing my screen again with you, looking at
21 Exhibit 101, the Key of Participants. Can you
22 identify by witness identifier who those three or
23 four witnesses were who testified at the hearing?

24 A. I only remember Mr. [REDACTED] testifying, Witness
25 Number 6.

1 Q. Thank you. So if I understand correctly, it's
2 your recollection that there were other
3 witnesses, but you don't recall who those
4 individuals were?

5 A. Correct. The only other one I remember is
6 Witness 3, Ms. [REDACTED].

7 Q. You believe that Witness 3 also testified at the
8 hearing?

9 A. Yes, I do.

10 Q. Okay. Of all the individuals listed here on
11 Exhibit 1 in the Key of Participants, did you
12 want to call any of them as witnesses to testify
13 on your behalf?

14 MR. MILTENBERG: Objection. You can answer.

15 A. I do not recall.

16 Q. Okay. Did you ask any of them to come to the
17 hearing to testify on your behalf?

18 A. I did not.

19 Q. Once you were found not responsible by the
20 decision-maker, was that the end of this
21 investigative process?

22 A. Yes.

23 MR. MILTENBERG: Objection. If you know.

24 A. I believe it was.

25 Q. Okay. Do you know if J.F. had an opportunity to

1 file an appeal?

2 MR. MILTENBERG: Objection. If you know.

3 A. Yes. She did file an appeal, and Butler did not
4 take it into account.

5 Q. Do you believe you were advised -- did someone
6 provide you a copy of her appeal?

7 A. I do not recall.

8 Q. Is it your understanding that ultimately through
9 the hearing and the appeal process, the decision
10 that you were not responsible remains standing?

11 A. Yes, to the best of my knowledge.

12 Q. Showing you once again the complaint that's filed
13 in this case, I'll go back down to page 31.

14 Looking here at exhibit -- or I'm sorry --
15 Paragraph 150f, says, Butler failed to properly
16 address harassment by B.P. and, slash, or J.F.

17 What harassment are you referring to in that
18 paragraph of your complaint?

19 A. I believe B.P. and J.F. made false allegations
20 against me to turn my friend group against me and
21 end all friendship with those people.

22 Q. Were those false allegations that you just
23 mentioned in your answer part of this complaint
24 process?

25 A. Yes, I believe they were.

1 Q. What were the false allegations?

2 A. I believe Ms. [REDACTED] or B.P. had said that I looked
3 out my window in Fairview to see when the other
4 members, including J.F., would be coming in; and
5 by a map of that Fairview house, it was not
6 possible that I could look through the window.
7 And that information is completely false.

8 Q. And what were the other false allegations?

9 A. I do not recall.

10 Q. Why do you believe B.P. and J.F. made those false
11 allegations?

12 MR. MILTENBERG: Objection. If you know.

13 A. I am not sure.

14 Q. Okay. Do you have any information as to what
15 their motive was?

16 A. I do not. After two years, I am still very,
17 very -- I have no idea why they did this to me.

18 Q. Other than the information that was provided
19 within the context of this complaint process, was
20 there other harassment that you believe took
21 place?

22 A. No, I do not. I believe this investigation was a
23 form of harassment.

24 Q. When you say the investigation, you believe that
25 the process was a form of harassment?

1 A. Yes, I do.

2 Q. Why do you believe that was a form of harassment?

3 A. At the end of the mediation, Mrs. [REDACTED] had
4 said that she would cut all -- the friends would
5 cut all contact with me. I did not have any
6 contact with her or the other members of the
7 friend group, and she still decided to file this
8 complaint against me.

9 Q. Let me know if I've got this correct. You
10 believe that because she could have just cut
11 ties, but instead she opted to file the
12 complaint, that is another incident of
13 harassment?

14 A. Yes, I believe so.

15 Q. All right. Did you file a written complaint with
16 the university regarding what you've identified
17 as harassment?

18 A. I did not.

19 Q. Did you ever speak with anyone at Butler about
20 potentially filing a formal complaint against
21 J.F.?

22 A. I did not.

23 Q. Going back to the complaint that should still be
24 on your screen, paragraph 150, subparagraph G, it
25 says, Butler failed to provide properly trained

resident assistants and failed to ensure a safe and nonhostile living environment for Plaintiff.

With regards to that allegation, tell me what training you believe should have been provided to the residents -- I'm sorry -- take two.

Tell me what training you believe should have been provided to the resident assistants that was not provided?

A. I don't have specifics, but I know they should have never escalated to this. The resident assistants told me, mine did, that this whole situation would blow over; and it clearly did not.

Q. At the time your resident assistants told you this whole situation should blow over, did you believe that's what would happen too?

A. I did not know what to think, but I trusted their judgment being that they held some position at the university. And I was being harassed, so I had to trust them to some extent.

Q. And the resident assistant that you spoke with didn't actually file a complaint against you, did he?

A. There were two resident assistants. Mine was Ms. Harris and theirs was another male.

1 Q. Did Ms. Harris file a complaint against you?

2 A. No, she did not.

3 Q. And did the other resident assistant that you
4 just referred to as another male, did he file a
5 complaint against you?

6 A. No, he did not.

7 Q. Okay. To your knowledge, did either one of them
8 tell J.F. to file a complaint against you?

9 A. I do not recall.

10 Q. When did your living environment become hostile?

11 A. My living situation became hostile right after
12 the mediation.

13 Q. Do you recall when the mediation took place?

14 A. I believe -- I don't have the specific date, but
15 it was sometime in March of 2021.

16 Q. Prior to the mediation, you didn't have any
17 concerns or complaints about your living
18 environment; is that right?

19 MR. MILTENBERG: Objection. You can answer.

20 A. No, I did not.

21 Q. And after the mediation, what particularly
22 changed to make your environment hostile?

23 A. I was sharing a pod with Ms. [REDACTED] and she, she
24 told me hearsay all the time of the Butler police
25 department knows what you did. And we shared a

1 vent; and at one point in time, I was on a phone
2 call with my mother. And [REDACTED] had overheard and
3 began yelling at me.

4 Q. And all of that happened after the mediation?

5 A. Correct.

6 Q. How long did you stay in the dorm after the
7 mediation before you went back to your home in
8 Seattle?

9 A. I had to go away from campus twice, and I believe
10 the last time was in mid April when I went home
11 for the summer.

12 Q. Mid April of 2021?

13 A. Correct.

14 Q. Do you have any way of knowing when you first
15 went home to Seattle?

16 A. I believe it was sometime in March.

17 Q. Were you provided with the option of changing
18 housing?

19 A. No, I was not.

20 (Exhibit 113, 4-5-2021 Kanger/[REDACTED] email
21 chain, was introduced.)

22 Q. Okay. I'm sharing my screen here that shows
23 Exhibit 113. I'll represent to you that this is
24 a two-page document. I'll scroll down real
25 quick. You can see the last page only has your

1 name on it. Starting at the bottom, do you
2 recognize what this document is?

3 A. Yes, I do.

4 Q. Okay. What do you see there at the bottom of
5 page 1, Exhibit 113?

6 A. I see a email from Ms. Kanger to me.

7 Q. What I'm looking at under where it says Original
8 Message, it says from [REDACTED], comma, [REDACTED]. Is
9 that what you're seeing as well?

10 A. Oh, yes. Sorry about that.

11 Q. Okay. Does that indicate that the message is
12 from you?

13 A. Yes.

14 Q. Okay. And is this message dated April 5, 2021?

15 A. Correct.

16 Q. And who is the message directed to?

17 A. Ms. Kanger.

18 Q. And what was she in relation to you at Butler?

19 A. She was the head of the Title IX office at
20 Butler.

21 Q. Okay. What were you reaching out to Ms. Kanger
22 about?

23 A. I believe I was reaching out to Ms. Kanger about
24 seeing a counselor.

25 Q. Your email says, There are no let's talk hours

1 today for Butler. There are no quotes around it,
2 but is the term "let's talk hours" something
3 that's a term that's used on Butler's campus?

4 A. I believe during COVID, this was a check-in for
5 the RAs to communicate with their students in the
6 residential houses.

7 Q. And is that what you meant when you said, There
8 are no let's talk hours?

9 A. Yes, I believe so.

10 Q. Okay. You indicated to her that you needed to
11 see a counselor; is that accurate?

12 A. Yes.

13 Q. Is the message we see at the top of page 1 here
14 Ms. Kanger's response to your email?

15 A. Yes.

16 Q. Did she provide you with a contact for counseling
17 at that time?

18 A. I do not recall.

19 Q. Okay. If we look at the first paragraph there,
20 if you read that, does that refresh your memory
21 as to whether or not she provided you with a
22 contact?

23 A. Yes, it does.

24 Q. Okay. And then at that time, did Ms. Kanger ask
25 you if you needed to change your housing

1 situation -- or yeah, housing situation?

2 A. Yes.

3 Q. Looking at her email, it indicates that she'd
4 previously talked to you about changing your
5 housing. Do you recall that now?

6 MR. MILTENBERG: Objection. You can answer.

7 A. Yes.

8 Q. Okay. What do you recall about prior discussions
9 on changing your housing?

10 A. I recalled that I emailed the housing director of
11 Fairview, Ms. Bucey, and she never -- I never
12 ended up switching rooms.

13 Q. Do you recall telling Ms. Kanger that as of
14 Friday, April 4th, you didn't see a need to
15 change your housing situation at that time?

16 A. I do not recall that. But seeing these emails...

17 Q. Does seeing these emails refresh your memory
18 about that at all?

19 A. Yes, they do.

20 Q. Okay. What is it specifically that you recall
21 now after seeing this email?

22 A. I recall that I said I did not need housing
23 anymore because nothing was getting done
24 beforehand. And I, I said to Ms. Bucey that this
25 was very urgent, and I didn't hear back for

1 hostile after the mediation. I'd like to talk a
2 little bit about that mediation. How did you
3 first learn that there was going to be a
4 mediation?

5 A. I had received a text from Ms. Fulscher saying
6 that there would be a mediation on one -- at one
7 of the buildings on campus.

8 Q. J.F. told you there was going to be a mediation?

9 A. Correct.

10 Q. Did she give you any additional information about
11 it at that time?

12 A. I do not recall.

13 Q. When you -- by the time you showed up at the
14 mediation, did you know who was going to be
15 there?

16 A. I do not recall.

17 Q. Do you know if you were told that it was going to
18 be a mediation?

19 A. I do not recall.

20 Q. Do you know if you were told the purpose of that
21 meeting?

22 A. I do not.

23 Q. Do you recall anything you were told in advance
24 of that mediation?

25 MR. MILTENBERG: Objection. You can answer.

1 A. I do not.

2 Q. Were you told that you had to attend the
3 mediation?

4 A. I do not recall, but I went because Ms. [REDACTED]
5 had texted me.

6 Q. Am I correct in saying that at that time, prior
7 to the mediation, you and J.F. were still
8 friends?

9 A. Correct.

10 Q. Do you recall where the mediation was held?

11 A. It was on the fourth floor of the Lacy School of
12 Business in a common area.

13 Q. Do you know why it was held there?

14 A. I do not.

15 Q. Had you ever heard of any residents participating
16 in mediation before?

17 A. I had not.

18 Q. Do you know who requested this mediation?

19 A. To the best of my knowledge, I believe it was
20 Ms. [REDACTED].

21 Q. Can you describe the mediation to me?

22 MR. MILTENBERG: Objection. You can answer.

23 A. The mediation took place with Ms. [REDACTED], along
24 with several other members of the cohort,
25 basically saying what I've done wrong the past

1 year and just verbally assaulting me.

2 Q. Did people other than J.F. express concerns about
3 what you had done wrong prior year or the past
4 year?

5 MR. MILTENBERG: Objection. You can answer.

6 A. Yes. But I do not recall specifics.

7 Q. Was there anybody who was present who was
8 speaking up on your behalf?

9 A. No, there was not.

10 Q. What role did the RAs play in the mediation?

11 A. The RAs were --

12 MR. MILTENBERG: Objection. You can answer.

13 A. The RAs were supposed to mediate the discussion
14 but merely just listened to the mediation.

15 Q. When you say they were supposed to mediate the
16 discussion, what makes you believe that's what
17 role they were supposed to play?

18 A. From mediation I assumed that the RAs would be
19 there to mediate the conversation.

20 Q. That's an assumption that you're making just
21 based upon the word mediation?

22 A. Yes. I also believed that they had said at the
23 mediation what their role was.

24 Q. As you sit here today, do you remember what they
25 said their role was?

1 A. I do not in specific.

2 Q. How did that mediation end?

3 A. That mediation ended by them dismissing
4 Ms. [REDACTED] and the other members of the group,
5 and me crying and them trying to comfort me.

6 Q. When you say them, do you mean both RAs?

7 A. Yes, correct.

8 Q. Do you recall anything they said to you?

9 A. No, not in specific.

10 Q. What were they doing to try to comfort you?

11 A. I do not remember specifics, but I believe they
12 said something to the extent of: It'll just blow
13 over. It's not a big deal.

14 Q. Did you discuss these issues with your RA at any
15 point after the mediation but before you learned
16 of J.F.'s complaint filed against you?

17 A. I had discussed with my RA, Ms. Harris, and
18 I'm -- yes, I had.

19 Q. When did you have those conversations with
20 Ms. Harris?

21 A. I'm not sure the exact dates, but it would have
22 been within a week or a week and a half after the
23 mediation.

24 Q. What did you discuss with her?

25 A. I discussed with her how I was struggling with

1 this and how to better deal with the situation
2 because I was in shock and I was confused as to
3 what specifically happened.

4 Q. Did she provide you with any assistance?

5 A. She said this whole issue would blow over, and it
6 was not a big deal and it will work itself out.

7 Q. Did she provide you with any other assistance?

8 A. I don't recall.

9 Q. You testified that you were asking her how to
10 better deal with the situation. Did she provide
11 you with any information on how to better deal
12 with it?

13 MR. MILTENBERG: Objection. You can answer.

14 A. I don't recall specifics.

15 Q. Outside of that conversation, did you have any
16 other conversations with the RAs between the
17 mediation and when J.F. filed a complaint?

18 A. I do not believe so.

19 Q. Did you have a good relationship with your RA?

20 A. Yes.

21 Q. Did you ever talk to your RA after you learned
22 that J.F. filed a complaint against you?

23 A. I do not recall if it was before or after, no.

24 Q. Do you ever recall having conversations with your
25 RA about the allegations that J.F. made in her

1 complaint?

2 A. I do not.

3 Q. You were finishing up the end of your sophomore
4 year at Butler when J.F. filed her complaint; is
5 that right?

6 A. Yes, that's correct.

7 Q. And I believe you testified at that time you were
8 already working on housing arrangements for your
9 senior year; is that right?

10 A. Yes, that's correct.

11 Q. Does that mean you had already locked in housing
12 arrangements for your junior year?

13 A. At that time, I believe I had not.

14 Q. Okay. So you were working a year ahead, but you
15 didn't know where you were going to live your
16 junior year yet?

17 A. At Butler, for senior housing, there are a number
18 of houses on campus or next to campus; and the
19 leases you have to sign two years in advance to
20 make sure you secure one.

21 Q. Okay. And so that's why you were focused on your
22 senior year, right?

23 A. Yes.

24 MR. MILTENBERG: Objection. You can answer.

25 Q. Then going back to your junior year, how was your

1 housing going to be determined for that?

2 A. Junior housing was on campus, so I was with the
3 other juniors where they house on campus.

4 Q. Okay. And is there a lottery that you get into
5 to determine where you're going to live and when
6 you pick?

7 A. Yes. There's a lottery on where the room will
8 specifically be in the building.

9 Q. And had you already been through that lottery
10 process when J.F. filed her complaint in March of
11 2021?

12 A. I had freshman year when I was not at the school
13 yet.

14 Q. Okay. But you hadn't been through the lottery
15 process in order to determine your junior year
16 housing?

17 A. I don't recall --

18 Q. Okay.

19 A. -- where that was in the time line.

20 Q. Okay. At the time J.F. filed her complaint, do
21 you recall if you had any details locked in for
22 your next year's housing?

23 A. I don't.

24 Q. Okay. Where did you live your junior year?

25 A. I lived in a section of campus called Apartment

1 Village with some other friends I had made.

2 Q. And when did you make those arrangements to live
3 with those friends in Apartment Village?

4 A. I believe it was after Ms. [REDACTED]'s complaint.

5 Q. Did you have to change your original housing
6 plans in order to go live with that new group of
7 friends?

8 A. No, I did not.

9 Q. And what was your housing arrangement for your
10 senior year?

11 A. The original arrangement was with Ms. [REDACTED]
12 and two others in a senior house a block away
13 from campus.

14 Q. And when you say J.F. and two others, the two
15 others that we're just identifying by a generic
16 term there, were they part of the cohort that
17 we've talked about?

18 A. Yes, they were.

19 Q. Okay. Did they live in J.F.'s pod?

20 A. Two -- there were actually three. Two of them
21 did -- or one of them did, and two of them did
22 not.

23 Q. Okay. So it would have been you, J.F., and three
24 others in your original senior housing plans?

25 A. Correct.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN DOE,)
)
Plaintiff,)
) CASE NO.
vs.) 1:22-cv-01828-SEB-MG
)
BUTLER UNIVERSITY,)
)
Defendant.)

The deposition of [REDACTED], was taken in the above-captioned case on June 26, 2023, and at the time and place hereof.

It was requested that said deposition be transcribed and reduced to typewritten form.

It was agreed by the deponent, all parties, and by their respective counsel that the signature of the deponent to the deposition be waived; said deposition to be read with the same force and effect as if signed by said deponent.

FURTHER THE DEPONENT SAITH NOT

(The reading and signing of the deposition were waived by the witness and all parties.)

[REDACTED]

SMITH REPORTING
400 NORTH HIGH STREET, SUITE 200
MUNCIE, INDIANA 47305
info@smithreporting.net

C E R T I F I C A T E

I, Tonya J. Dunn, a Notary Public, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named witness was by me, before the giving of their deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth to questions propounded at the taking of the foregoing deposition in a cause now pending and undetermined in said court.

I further certify that the deposition above-set forth was reduced to writing by me by means of machine shorthand and was later transcribed from my original shorthand notes; that this is a true record of the testimony given by the witness; and that said deposition was taken at the aforementioned time, date, and place, pursuant to notice or stipulations of counsel.

IN WITNESS WHEREOF, I have set my hand and seal
this 12th day of July, 2023.



A handwritten signature of Tonya J. Dunn in cursive script.

Tonya J. Dunn, RPR, CMRS, and
Notary Public



BUTLER STUDENT HANDBOOK



STUDENT HANDBOOK MENU

Rights & Responsibilities

University Rules of Conduct

Student Conduct System

Privacy Rights of Students

Campus Life Policies

Academic Policies

Know your rights and responsibilities as a member of the Butler community.

The student handbook can serve as a map of the Butler University community—a reference guide covering a wide variety of topics. All Butler students are responsible to know and abide by the University rules, regulations, and policies that are referenced here. Additionally, this resource contains important information about the University’s student conduct system. It is to your benefit to familiarize yourself with its content.

While this student handbook is intended to be a fair summary of certain matters of interest to students, its readers should be aware that it is not a complete statement of all procedures, policies, rules and regulations of Butler University; the University has the right to change without notice any procedures, policies or programs that appear in the student handbook; and the various colleges and departments of the University may have their own procedures and policies that apply to students. In addition, except where expressly noted herein, this student handbook is not, nor is it intended, to create a contract between any student and the University. The terms set forth in this student handbook do not create contractual or legal rights for students.

Various committees and staff members of the University are responsible for the areas covered in the student handbook and the affiliated websites. The University, these committees and officers have the right to make changes in University regulations, policies, procedures and other matters as deemed appropriate, with or without notice to students. Updates and changes to University rules and policies that occur after August are likely to be highlighted on the Butler App, on department websites, and/or sent directly to a student’s Butler-assigned email addresses.

Butler students wishing further information concerning the topics dealt with in the student handbook are encouraged to contact the Office of the Dean of Students in Atherton Union, Room 311, 317-940-9470, and deanofstudents@butler.edu. Comments or concerns regarding the student handbook are welcome.

- [Rights and responsibilities](#)
- [Policies and Procedures](#)

Policy quick links for students

Questions about Butler’s policies and how they affect you as a student? Access them easily here.

- Academic Policies

→
- Campus Life Policies

→

- [Careers at Butler](#)

- Legal**

[Consumer Information](#)

[Website Feedback & Accessibility](#)

[Sexual Misconduct Resources](#)

[Incident of Bias](#)

[Privacy Policy](#)

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